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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,089	01/28/2004	Arno D. Bruns	08020.0011-00000	9826
22852 7590 02/04/2008 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
EXAMINER PLUCINSKI, JAMESUE A				
ART UNIT		PAPER NUMBER		
3629				
MAIL DATE		DELIVERY MODE		
02/04/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/765,089

**Applicant(s)**

BRUNS, ARNO D.

**Examiner**

JAMISUE A. PLUCINSKI

**Art Unit**

3629

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27, 30 and 39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Claim 1-4, 6, 8-15, 17, 19-25, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US 2004/0225507) in view of Kruglikov et al. (US 2008/0015959).
4. With respect to Claims 1, 12, 23, 24, 25 and 30: Smith discloses the use of a method, system and a computer readable medium with instructions to configure a processor to perform functions for planning a delivery of at least one good comprising:
  - a. Receiving a sales order with a description of a good, the location of the good and requested delivery date (Paragraph 0017);

- b. selecting a source location for the good (Paragraph 0020, Smith discloses determining which supplier is associated with the order, therefore the examiner considers this to be selecting the source location of the good);
  - c. determining a set of trips based on a set of geographic routes, transportation service provider information, and scheduling information (Paragraphs 0024 and 0025, ship schedules from each supplier are received, in order to determine the delivery date. The examiner considers this to be a set of trips);
  - d. selecting a trip from the set of trips based on a set of criteria (Paragraph 0024); and
  - e. scheduling the trip such that the good is scheduled to be delivered from the source location to the destination location substantially close to the requested delivery date (Paragraph 0004 and 0034).
2. Smith discloses selecting a source location for the good, however discloses it is based on the date the goods leave the source, not the availability date of the good at the source location. Kruglikov et al. (US 2008/0015959) discloses the use of scheduling goods, based on availability and delivery date (See Figures 5 and 6, with corresponding detailed descriptions and Paragraph 0052-0055). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Smith, to include the availability date in determining the source location for the goods, in order to up to date delivery and inventory management information (See Kruglikov, Page 1).
3. With respect to Claims 2 and 13: Smith discloses determining a set of trips comprises selecting one or more geographic routes from the set of geographic routes (See Table 1, Page 3).

4. With respect to Claims 3 and 14: Smith discloses selecting one or more geographical routes comprises restricting the set of geographical routes based on a geographical classification for the source location and the destination location (Paragraph 0026, Smith discloses using zones, which the examiner consider to be geographic classification).
5. With respect to Claims 4 and 15: Smith discloses determining a set of trips comprises selecting a transportation service provider for each geographic route (Paragraph 0024).
6. With respect to Claims 6 and 17: Smith discloses the set of criteria comprises at least one criterion representative of closeness of a trip delivery date to the requested delivery date (Paragraph 0034).
7. With respect to Claims 8-10 and 19-21: See Kruglikov, Figure 6 with corresponding detailed description.
8. With respect to Claims 11 and 22: See Paragraph 0034 and 0035.
9. With respect to Claim 29: See Paragraph 0037.
10. With respect to Claim 27: Smith discloses the use of selecting a delivery date, however fails to disclose the customer indicating it is a rush order and scheduling for the rush order. The examiner is taking official notice that the use of Rush orders are well known to one of ordinary skill in the art. This is done when ordering same day service, or rush print jobs, or even when ordering express delivery for commercial carriers, and the rush order delivery date is scheduled there with. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Smith, to have the user indicate the order is a rush order and schedule accordingly.

11. Claims 5, 7, 16, 18 and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. and Kruglikov et al. in further view of Arunapuram et al. (US 2002/0019759).

12. Smith discloses the use of trip schedules, however fails to disclose eliminating the trip schedules or selecting a trip based on dangerous goods or cost information. Arunapuram discloses the use of shipping orders, where a set of trips for a shipping order are set, and a trip is selected based on things such as cost and whether the items are hazardous material (See Arunapuram, abstract and Paragraph 0055). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Smith, to have the optimal trip selected, based on criteria, such as hazardous material and cost, as disclosed by Arunapuram, in order to provide an optimum solution based on the customer's needs (See Arunapuram, abstract and Pages 1 and 7).

#### ***Response to Arguments***

13. Applicant's arguments with respect to claims 1-27 and 29-30 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMISUE A. PLUCINSKI whose telephone number is (571)272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jp

/Jamisue A. Plucinski/  
Primary Examiner, Art Unit 3629